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NO. 3127 P. 12

Application No. 10/500,175
Amendment dated November 28, 2007
Reply to Office Action dated August 3, 2007

Docket No.: 61536 (46342)

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REMARKS

Claims 1-39 are pending in the instant application. Claims 1-21 and 23 remain withdrawn from consideration. Claims 28-39 have been canceled without prejudice. Claims 22 and 24-27 have been amended. Support for the instant amendments can be found throughout the specification and in the claims as originally filed. Claims 1-27 will be pending upon entry of the within amendment. No new matter has been introduced by the instant amendments.

Amendment of any claim herein is not to be construed as acquiescence to any of the rejections/objections set forth in the instant Office Action, and was done solely to expedite prosecution of the application. Applicants make these amendments without prejudice to pursuing the original subject matter of this application in a later filed application claiming benefit of the instant application, including without prejudice to any determination of equivalents of the claimed subject matter.

Claim Objections

Claims 22, 25, 28, 29, 31, 32, 34, 35, 37, and 38 are objected to as reciting non-elected subject matter and for containing typographical errors. Claims 28-39 have been canceled. Claims 22 and 25 have been amended to delete non-elected subject matter. The objections are overcome and withdrawal of the objections is respectfully requested.

Claim Rejections – 35 U.S.C. §112

Claims 22 and 24-39 stand rejected under 35 U.S.C. §112 first paragraph, as allegedly failing to comply with the written description requirement. It is alleged that the specification does not disclose polypeptides having substantially the same amino acid sequence as the polypeptide represented by SEQ ID NO. 16.

The rejection is respectfully traversed. However, in order to address the Examiner's concerns and expedite prosecution, claims 28-39 are hereby cancelled without prejudice and claims

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22 and 24-27 are hereby amended to remove the phrase "same or substantially the same." The rejection is overcome and withdrawal of the rejection is respectfully requested.

Claims 22 and 24-39 stand rejected under 35 U.S.C. §112 first paragraph, as allegedly lacking enablement for inhibiting body weight gain, adipose gain, promoting body weight loss, or feeding inhibition by administering a polypeptide containing the same or substantially the same amino acid sequence as that represented by SEQ ID NO: 16, a compound or a salt thereof having an activity of the polypeptide, or an agonist to a protein containing the same or substantially the same amino acid sequence.

The rejection is respectfully traversed. However, in order to address the Examiner's concerns and expedite prosecution, claims 28-39 are hereby cancelled without prejudice and claim 22 has been amended. The rejection is overcome and withdrawal of the rejection is respectfully requested.

Claims 22 and 24-39 stand rejected under 35 U.S.C. §112 second paragraph, as allegedly indefinite for the term "activity." Applicants traverse but have amended claim 22 to remove the recitation of the term "activity." The rejection is overcome and withdrawal of the rejection is respectfully requested.

Claim Rejections – 35 U.S.C. §102(b)

Claims 22 and 24-39 are rejected under 35 U.S.C. §102(e), as allegedly being anticipated by Mori et al. (US 7,193,033), which rejection is respectfully traversed. As Applicants understand, Mori discloses a polypeptide having an amino acid sequence of SEQ ID NO: 16. Mori et al., however, neither teaches nor suggests that a polypeptide having the amino acid sequence of SEQ ID NO: 16 may be useful for therapeutic use disclosed in Claims 22 and 24-27; that is, for inhibiting body weight gain, losing body weight, inhibiting adipose gain and inhibiting feeding. Claims 22 and 24-27 provide new therapeutic uses for the polypeptide having the amino acid sequence of SEQ ID NO: 16 which are not disclosed in Mori.

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The Office Action also asserts that the method of the invention is achieved by administering an identical polypeptide (SEQ ID NO: 16) to a mammal, which is claimed in claim 6 of Mori. Applicants traverse but have amended claim 22 to include parental administration. Support for the amendment can be found at least at page 42, lines 10-21, and page 61, line 20 through page 62, line 3. Claim 22 as amended therefore provides a new therapeutic use and a method of administration for the polypeptide described above. Additionally, as Applicants understand, Mori discloses that the polypeptide is administered to the lateral ventricle (centrally-administered), resulting in stimulating appetite; see e.g., claim 6 and Example 24 of Mori et al. Thus, the central administration of the polypeptide does not lead to feeding inhibition. The feeding inhibition is provided by parental administration as claims 22 and 27 of the instant invention. The instant claims as amended are thus distinct from the teachings of Mori. Withdrawal of the rejection is respectfully requested.

In view of the above amendment, applicant believes the pending application is in condition for allowance. The Director is hereby authorized to charge any credits or deficiency in the fees filed (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105, under Order No. 61536 (46342).

Dated: November 28, 2007

Respectfully submitted,

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